



MEMORANDUM

To: Members of the Michigan House Committee on Great Lakes and Environment

From: Doug Roberts, Jr., Director of Environmental and Energy Policy

Subject: House Bill 4047 – Landfill Moratorium

Date: 1/30/07

The purpose of this memo is to inform you that the **Michigan Chamber of Commerce opposes House Bill 4047**, sponsored by Representative Ebli. This legislation proposes to establish a moratorium on the expansion of landfills. As drafted, the legislation would pose a number of problems for Michigan's business climate, including causing a lack of certainty in the permit process, and eliminating much needed flexibility for certain generators of waste.

Lack of Certainty in the Permit Process

Michigan's job providers need certainty in the permit process. They need to know that if they meet all of the requirements of the law they will receive a permit to operate. HB 4047 would severely damage the certainty in the permit process. Section 11511C of the legislation requires the Michigan Department of Environmental Quality to retroactively revoke permits that they have issued between December 31, 2005 and the effective date of this act. Having the legislature retroactively revoke a permit issued by the DEQ, or requiring the DEQ to reject permits that are currently pending, is a terrible precedent which would have negative implications for the entire business community. In addition, such an action may be considered to be a regulatory taking and could be stricken by the courts. An amendment is needed to remove the retroactive language.

Current Planning Process Requires Long-Term Thinking

It is worth asking: what problem is HB 4047 attempting to solve? Proponents of the legislation claim that there is a 17-year capacity of landfill space in the state. This is likely occurring because current law requires a long-term planning process. Section 324.11537 of current law requires County Solid Waste plans to site disposal areas to fulfill a 20-year capacity. If lawmakers believe that our current disposal capacity is too large, the proper way to solve this problem is to amend the County Solid Waste process, not by establishing a moratorium.

Limits Disposal Options for Manufacturers

Manufacturers, Utilities, and other generators of Type III waste are always looking for the most cost-effective way to handle their generated waste. This legislation could prohibit Type III waste from being disposed of in segregated portions of landfills which would drive up costs for manufacturers in Michigan. An amendment is needed to allow a landfill unit to meet the needs of captive capacity with an expansion of and only to an area for segregated Type III captive waste. This could be done by revising the definition of a captive facility.

For the reasons outlined above, the Michigan Chamber of Commerce is opposed to HB 4047. **We encourage you to vote no on HB 4047.** If you have any questions about our position please feel free to contact me, Doug Roberts, Jr. at (517) 371-2100.